IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION Nos.10152, 5358, 17364 and 9763 of 2001

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WRIT PETITION NO : 10152 of 2001

Between:

M/s.Yak Granite Industries Pvt.ltd.,

rep. by its Director Sri K.natarajan,
S/o Sri A.Krishna Murthy, R/o H.no.32,

10th Avenue, Ashoknagar, Chennai.

..... PETITIONER

AND

1 Govt. of A.P., rep. by its Secretary, Industries,

Secretariat, Hyderabad.
2 Govt. of A.P., rep. by its Director, Mines & Geology,

BRKR Bhavan, 8th floor, TnakBund Road, Hyderabad.
3 M/s.Sramashakthi Granite Stone Polishing Industries

Cooperative Society Ltd., Peddapur, Atmakur Mandal,
Warangal Dist., rep. by its President.
4 Asst.Director, Survey and Land Records, Warangal.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction especially in the nature of writ of mandmus directing the respondents 1 & 2 not to demarcate the area of Ac.4.03

guntas to be handed over to the 3rd respondent from out of the land already leased out to the petitioner in Sy.No.584/1 of Peddapur Village, Atmakur mandal, Warangal Dist. as per the map attached to the lease deed dt.22-12-1993

Counsel for the Petitioner : MR.MOVVA.CHANDRASHEKAR RAO

Counsel for the Respondents 1, 2, & 4: G.P. FOR INDUSTRIES &

COMMERCE

Counsel for the respondent No.3 : Mr.P. Prabhakar Reddy

WRIT PETITION NO : 5358 of 2001

Between:

M/s.Yak granite Industries Pvt. Ltd.,

rep. by its Director Sri K.Natarajan,
S/o A.Krishna Murthy, R/o H.No.32,

10th Avenue, Ashok nagar, Chennai.

..... PETITIONER

AND

1 Govt. of A.P., rep. by its Secretary, Industries Hyderabad.
2 Govt. of A.P., rep. by its Director, mines & Geology, Hyderabad.
3 M/s.Sramashakthi Granite Stone polishing Industries

Cooperative Society Ltd., Peddapur,

rep. by its President.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction preferably a writ in the nature of certiorari, calling for the records pertaining to proceedings No.20811/R7-1/1992 dt.14/3/2001 issued by the 2nd respondent and quash the same as being illegal, arbitrary and violative of Article 14 and 19 of the constitution of India and consequently suspend the proceedings No.20811/R7-1/1992 dt.14/3/2001 issued by the 2nd respondent

Counsel for the Petitioner : MR.P.VENUGOPAL

Counsel for the Respondents 1 & 2: G.P. FOR INDUSTRIES &

COMMERCE

Counsel for the respondent No.3: P. Prabhakar Reddy.

WRIT PETITION NO : 17364 of 2001

Between:

M/s.YAK GRANITE INDUSTRIES PVT. LTD.,

Rep. by its Director, Sri. K.Natarajan,
S/o Sri A.Krishna Murthy R/o H.No.32,

10th Avenue, Ashok Nagar, Chennai.

..... PETITIONER

AND

1 Govt. of A.P., rep. by its Secretary, Industries & Secretariat Buildings, Hyderabad.
2 Govt. of A.P., rep. by its Director, Mines & Geology,

BRKR Bhavan, Near Tank Bund, Hyderabad.
3 Govt. of A.P., rep. by its Asst.Director of Mines & Geology,

Warangal.
4 M/s.Sramashakthi Granite Stone Polishing Industries Cooperative

Society Ltd., Peddapur, Atmakur Mandal,
Warangal Dist., rep. by its President.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction preferably a writ in the nature of mandamus declaring the action of the 3rd respondent in issuing the impugned proceedings, namely proceedings No.1120/Q/2001 dt.1/8/2001, without proper demarcation, as illegal, arbitrary and violative of Article 14 and 19 of the Constitution of India and set aside the same and consequently suspend operation of the said proceedings

Counsel for the Petitioner: MR.P.VENUGOPAL

Counsel for the Respondents 1 to 3: G.P. FOR INDUSTRIES &

COMMERCE

Counsel for the respondent No.4 : Mr.P.Prabhakar Reddy.

WRIT PETITION NO : 9763 of 2001

Between:

Sharmashakthi Granite & Stones & Polishing Coop. Society

rep by its Director B.Laxminaraya,
S/o Narasaiah, R/o Peddapur Village,

Atmakur Mandal, Warangal Dist.

..... PETITIONER

AND

1 The director, Mines & Geology, BRKR Bhavan, 8th fllor,

Tankbund Road, Hyderabad.
2 The Asst. Director, Mines & Geology, Warangal Dist.
3 M/s.Yak Granites Industries Pvt. Ltd.,

rep. by its Director, Sri K.Natarajan,
S/o A.Krishan Murthy, R/o H.No.32, 10th Avenue,

Ashoknagar, chennai.

(R-3 is impleaded as per the Court Order dated

26-07-2001 in W.P.M.P.19126/2001)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of mandamus declaring that the action of the respondents in not handing over the area leased out to the petitioner's Society in Sy.No.584/1 to an extent of Ac.4.03 gts situated at Peddapur Village, Atmakur Mandal, Warangal dist in the light of proceedings No.20811/R7-1/1992 dt.14-3-2001 issued by the respondent No.1 and as per the Survey report and map submitted by Asst.Director, Survey and Land Records, Warangal id highly arbitrary, bad and illegal.

Counsel for the Petitioner: MR.P.PRABHAKAR REDDY

Counsel for the Respondents 1 & 2: G.P. FOR INDUSTRIES &

COMMERCE

Counsel for the Respondent No.3: Mr.P. Venugopal.

The Court made the following COMMON ORDER:

WRIT PETITION Nos.10152, 5358, 17364 and 9763 of 2001

COMMON ORDER:

Since the issue involved in all the four writ petitions is inter-linked with each other, they are being heard together and disposed of by this common order.

The brief facts are as under:

M/s. Yak Granites Industries Private Limited, petitioner in W.P. No. 17364 of 2001 was granted a quarry lease of black granite over an extent of Ac.13.75 gts in survey No.584/1 of Peddapuram village, Atmakur Mandal of Warangal District, for a period of 15 years and the said lease is valid upto 27-12-2008. M/s. Asha Granites, was granted lease to an extent of Ac.7.20 gts. and subsequently, the same was transferred in favour of M/s. Novel Granites by the Director of Mines and Geology, Hyderabad, vide proceedings No.11964/K5/94, dated 19-07-1994. Thereupon, M/s.Novel Granites surrendered the quarry lease area on 12-09-1995 and the same area has been leased out to M/s.J.R. Granites by the Director of Mines and Geology, vide proceedings No.25900/R7-1/97, dated 10-11-1997 and the said lease is in force, which will be valid upto 20-11-2012.

Initially, the total extent of survey No.584 was recorded as Ac.30.29 gts, out of which an extent of Ac.9.34 gts was assigned by giving survey No.584/2 to 15 and out of the remaining area of Ac.20.35 gts, an extent of Ac.13.75 gts. (Ac.13.30 gts.) was leased out to Yak Granites and an extent of Ac.7.20 gts. to Asha Granites.

M/s. Shrmashakthi Granite Stones & Polishing Co-operative Society, petitioner in W.P.No.9763 of 2001 and third respondent in W.P.No.5358 of 2001, and 10152 of 2001 and fourth respondent in W.P.No.17364 of 2001, filed quarry lease application on 10-12-1993 for grant of quarry lease for black granite over an extent of Ac.14.00 gts in survey No.584/1 of Peddapuram village, Athamakur Mandal, Warangal District, to the Assistant Director of Mines and Geology, Warangal, which was referred to the Assistant Director, Survey and Land Records, Warangal for report of any excess land available in survey No.584/1 duly informing the extents of the existing leased areas available in the said survey number, vide letter No.4192/Q/93, dated 15-12-1993. Later on, the application of the Shramashakti Granites along with other connected applications was transferred to the Deputy Director of Mines and Geology, Warangal for processing of the same. Thereafter, the said Deputy Director has requested the Assistant Director of Survey and Land Records, Warangal to conduct the survey and demarcation of the land in survey No.584 and to report the excess area, if any, available in survey No.584/1 to consider the application of Shramashakthi Granite Stones vide letter Nos.4192/Q/93, dated 02-02-1994 and 18-03-1994. On such request, the Deputy Inspector and Inspector of Survey and Land Records Department, Warangal had demarcated the land in survey No.584 and reported that the total extent of survey No.584 was arrived at Ac.34.37 gts. as against the extent of Ac.30.29 gts. recorded earlier. Since an excess area of Ac.4.03 gts. was available after leaving the existing leases of M/s.Yak Granites Industries Pvt. Ltd., and M/s.Asha Granites, necessary request was made to take necessary action for issuance of supplementary sethwar by the Revenue Divisional Officer, Warangal vide his letter No.D/4924/92, dated 26-05-1994. Thereupon, the District Collector, Warangal through his letter No.K2/2473/92, dated 30-07-1996, has submitted necessary proposals to the Director of Settlements, Survey and Land Records, Hyderabad to issue supplementary sethwar to the effect that the land of survey No.584 may be read as Ac.34.37 gts, instead of Ac.30.29 gts. Since no decision is taken on the application made by the Shramashakti Granite Stones, it has filed W.P.No.26299 of 2000 and got interim orders for consideration of its application. Pursuant to the said interim direction, joint inspection of the area in question was taken-up on 08-03-2001 by the Revenue Divisional Officer, Warangal, Assistant Director of Survey and Land Records, Warangal and the staff of Assistant Director of Mines and Geology, Warangal. As there were no revenue boundary stones available in the field, the Revenue Divisional Officer has decided to conduct

a detailed survey of the area in survey No.584 and he directed the said concerned officials to submit a report in the matter. Accordingly, joint survey was carried out by the surveyors of Survey and Land Records Department and surveyors of Mines and Geology, Warangal upto 04-04-2001. When the said survey was under process, the Director of Mines and Geology, Hyderabad has granted prospecting licence for black granite over an extent of Ac.4.03 gts in favour of Shramashakti Granites on the basis of the report of Assistant Director, Survey and Land Records, Warangal and handed over the same to the grantee, vide proceedings No.20811/R7-1/1992, dated 14-03-2001. Questioning the same, M/s. Yak Granites Industries Pvt. Ltd., has filed W.P.No.5358 of 2001 for quashing the prospecting licence granted to M/s.Sharamshakthi Granites and obtained interim orders vide W.P.M.P.No.6841 of 2001, dated 23-03-2001, wherein it was ordered as under:

> "pending further orders it is declared that nothing in the proceedings of the 2nd respondent bearing reference No.20811/R7-1/1992, dated 14-03-2001 shall operate to adversely affect the rights of the petitioner pursuant to the lease granted to it in the proceedings the Assistant Director of Mines and Geology bearing No.2474/Q/93, dated 22-12-93 in respect of Survey No.584/1, Peddapur Village, Atmakur Mandal, Warangal District."

On completion of the joint survey the Assistant Director, Survey and Land Records, Warangal through his letter No.K9/1373/2000, dated 21-04-2001 has reported that they have fixed the boundaries in the said survey number and the same were shown to the Surveyor of the Mines Department. But, the Assistant Director, Survey and Land Records, Warangal has incorporated the existing leases and assigned lands area as Ac.4.03 gts. The combined sketch prepared by the Surveyor of the office of the Assistant Director, Mines and Geology, Warangal clearly shows the existing leased areas, assigned lands and excess area. Since there were certain variations when compared to the sketch sent by the Assistant Director, Survey and Land Records, Warangal, M/s.Shramshakti Granites filed Writ Petition No.9763 of 2001 for handing over of such area in its favour, wherein this Court directed to handover the said area, as per the proceedings dated 14-03-2001 in favour of the said society. In view of variations noticed in the sketch sent by the Assistant Director of Survey and Land Records, the Assistant Director of Mines and Geology, Warangal, requested to clarify the variations of areas compared to the

sketch drawn as per the survey done in the year 1994.

Keeping in view of the interim order granted in favour of M/s.Yak Granites Industries Pvt. Ltd., in W.P.M.P.No.6841 of 2001 in W.P.No.5358 of 2001, dated 23-03-2001, to which the Assistant Director, Survey and Land Records, Warangal has informed that once the area is rectified and the supplementary sethwar issued, the same cannot be changed. Thereafter, the Assistant Director was requested to attend the spot inspection on 16-05-2001 for showing of the existing leased areas of M/s.Yak Granite Industries Pvt. Ltd., and M/s.J.R. Granites and to handover the excess area available to the petitioner-Shramshakti Granites in W.P.No.9763 of 2001 as per the interim orders granted.

Accordingly, the joint inspection of the area was taken up in the presence of existing lease holders and office bearers of the society on 16-05-2001 by the Assistant Director, Survey and Land Records, Warangal and the Assistant Director of Mines and Geology, Warangal and Mandal Revenue Officer, Athmakur. When the Assistant Director, Survey and Land Records, Warangal, started to re-check the survey, Yak Granites Industries Pvt. Ltd., filed W.P.No.10152 of 2001 impleading it as one of the respondents and obtained interim orders in W.P.M.P.No.12710 of 2001, dated 22-05-2001 similar to that granted in W.P.No.5358 of 2001. At that time, Shrmashakti Granite Stones filed W.P.No.9763 of 2001, which was referred to above.

In view of various interim orders, the Assistant Director of Survey and Land Records, Warangal has conducted re-check survey in survey No.584 during the period from 16-05-2001 to 31-05-2001 and shown the outer boundaries of survey No.584 to the Assistant Director of Mines and Geology, Warangal without showing the excess area of Ac.4.03 gts., after delineating the existing quarry lease area in the field.

The said report was submitted on 02-06-2001 by the Assistant Director of Survey and Land Records, Warangal, along with sketch showing the existing area leases, excess area and assigned lands. After survey it was found that the area in survey No.584 is Ac.34.37 gts., instead of Ac.33.20 gts. as reported by the Assistant Director, Mines and Geology, Warangal. The same survey number was surveyed in the year 1994 and there was no variation on the excess area arrived to the extent of Ac.4.03 gts., for which supplementary sethwar was issued for correction of the area

in the year 1997. It is stated by the Assistant Director of Survey and Land Records, Warangal, after the said excess areas were shown to him on the spot on 31-05-2001, the office surveyor has taken the measurements of all the boundary stones of survey No.584 in the field as shown by the Assistant Director of Survey and Land Records, which noticed that the shape shown in the sketch sent by the Assistant Director of Survey and Land Records and excess area is fallen in two places i.e., one in between assigned survey numbers 584/10 & 11 to an extent of Ac.0.18 gts., and other between two leases to an extent of Ac. 2.22 gts., totaling to an extent of Ac. 3.00 gts. was arrived as an excess area as against Ac.4.03 gts.

In reply to the letter No.32252/Q1/92, dated 12-06-2001 of the Assistant Director of Mines and Geology, Warangal the Assistant Director, Survey and Land Records, Warangal in his letter No.K9/1373/2000, dated 14-06-2001 reported that the boundaries were shown to the Assistant Director of Mines and Geology, Warangal, during the joint survey conducted after fixing the boundaries of the granite lease boundaries to an extent of Ac.4.03 gts found excess. When the same was brought to the notice of the Director of Mines and Geology, Hyderabad, he deputed the Deputy Director (Mines), to inspect the spot and report compliance. Accordingly, the Deputy Director (Mines) has personally visited the spot on 18-06-2001 and observed that some pillars were erected in the adjacent patta lands. At that time, the representative of M/s.Yak Granites Industries Pvt. Ltd., has objected with the erected pillars by the Assistant Director of Survey and Land Records, Warangal, which could have made the same before the Assistant Director of Survey and Land Records, Warangal. A joint inspection and demarcation was made and after discussion of the issues, the Director of Mines and Geology instructed to take necessary action as per the sketch sent by the Assistant Director, Survey and Land Records, Warangal.

In the mean while, M/s.Shramashakti Granite Stones filed a Contempt Case No.879 of 2001 in W.P.No.9763 of 2001 for delay in the implementation of the interim directions in handing over the area. Accordingly, the Director of Mines and Geology, Hyderabad has granted extension of time by 30 days for execution of the licence deed and after obtaining necessary report from the General Manager, District Industries Centre, Warangal, with regard to the persons, who authorized to execute the licence deed on behalf of the M/s.Shramashakti Granites, licence deed was executed in his favour. On execution of the said licence deed, M/s.Shramshakti Granite Stones agreed to withdraw the Writ Petition No. 26299 of 2000 and 9763 of

2001 and abide by the decision in the writ petition filed by the Yak Granites in view of the execution of the licence of Shramashakti Granite Stones. Questioning the same, M/s.Yak Granites filed W.P.No.17364 of 2001.

Learned counsel appearing for the Yak Granites contends that they have no objection for grant of any lease over the excess area without affecting the rights or the area to which they have been granted.

Learned counsel appearing for the Shramashakti Granites contends that on its executing of the lease deed, excess area was earmarked and demarcated, which was shown along with lease deed, which in no way affects the rights of the petitioner of Yak Granites, since they have participated in the joint inspection dated 16-05-2001 conducted by the officials of the Assistant Director, Survey and Land Records, Warangal, and they have not objected. Whereas the learned counsel for Yak Granites contends that there are only boundaries of outer limits have been fixed, but not the exact leased area granted in favour of the petitioner.

The learned Government Pleader submitted that only without affecting the area, which was granted lease in favour of the Yak Granites, the remaining area was given possession on granting of the licence to the Shramashakti Granites.

As seen from the joint inspection report dated 02-06-2001 prepared by the Assistant Director of Mines and Geology, all the lease holders attended the joint inspection including the representative of M/s.Yak Granites. Moreso, the supplementary sethwar which was issued in the year 1997 clearly shows that an extent of Ac.4.37 gts. is an excess land arrived in the year 1994 and the boundaries of 584/1-A, 581/1-B and 584/1-C have been demarcated on the spot and the same have been shown to the Assistant Director of Mines and Geology and after the panchnama conducted on 31-05-2001 on the spot and after marking the boundaries, the representative of Yak Granites has not objected for drawing of panchnama nor any objection is raised with regard to the area which is now included to the lease granted in favour of the Shramashakti Granites.

In view of the same, the contention of the learned counsel for the Yak Granites that the area has not been properly demarcated to the extent of lease granted in its favour cannot be countenanced. If the petitioner feels that the leased area granted to it is less than the area i.e., Ac.13.30 gts., it is always open for it to make an application seeking appropriate demarcation of the leased area granted in

its favour. On such representation is being made, necessary survey should be conducted after due notice to the other lease holders and then the area should be demarcated between the lease holders by the officials of the Mines and Geology.

The writ petitions are accordingly disposed of and all interim orders granted earlier by this Court shall stand vacated. No costs.

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A. Gopal Reddy,J.

30th June, 2004

lsn/Kdl

To

1 The Secretary, Industries,

Govt. of A.P., Secretariat, Hyderabad.
2 The Director, Mines & Geology Department

Govt. of A.P., BRKR Bhavan, 8th floor, TnakBund Road, Hyderabad.
3 M/s.Sramashakthi Granite Stone Polishing Industries

Cooperative Society Ltd., Peddapur, Atmakur Mandal,
Warangal Dist., rep. by its President.
4 Asst.Director, Survey and Land Records, Warangal.

5. The Asst.Director of Mines & Geology, Warangal.

6. M/s.Yak Granites Industries Pvt. Ltd.,

rep. by its Director, Sri K.Natarajan,
S/o A.Krishan Murthy, R/o H.No.32, 10th Avenue,

Ashoknagar, chennai.

7. Two CCs to G.P. for Industries and Commerce (OUT)

8. Two CD copies.